



October 19, 2015

Kevin M. Modany
Chief Executive Officer
ITT Educational Services, Inc.
13000 North Meridian Street
Carmel, IN 46032-1404

Re: Additional Reporting Requirements
OPE-IDs: 00732900 – ITT Technical Institute
03071800 – ITT Technical Institute
00473100 – Daniel Webster College

Dear Mr. Modany:

As a result of its heightened review of ITT Educational Services, Inc. (ITT), the U.S. Department of Education (Department) is providing this letter to identify additional procedures that ITT will need to follow in order to continue its participation in Title IV, HEA programs under ITT's current heightened cash monitoring method of payment.

On August 19, 2014, the Department sent you a letter citing ITT for its failure to submit timely an acceptable annual compliance audit and/or audited financial statement submission for ITT's fiscal year ending December 31, 2013. ITT's failure to make this timely submission resulted in the Department imposing a requirement that ITT be provisionally certified for a cumulative period of at least five years, pursuant to 34 C.F.R. § 668.175(f), and that ITT post an irrevocable letter of credit (LOC) for a period of five years in the amount of 10% of the Title IV, HEA program funds received by ITT during its most recently completed fiscal year (approximately \$79.7 million). At that same time, the Department also required ITT to make disbursements to eligible students and parents under the Heightened Cash Monitoring method of payment, as described in 34 C.F.R. § 668.162(e)(1) (HCM1).

Subsequent events since August 2014 – including ITT's failure of the general standards of financial responsibility set forth in 34 C.F.R. Part 668, Subpart L (due to a failing financial composite ratio) and the announcement by the Securities and Exchange Commission of a civil action against ITT and two of its officers – led the Department to impose additional reporting requirements, in order to permit the Department to more closely monitor ITT's ongoing participation in Title IV, HEA programs.

In taking each of the steps noted above, the Department considered – as it has considered again with the issuance of this letter – that as a condition of participation in Title IV, HEA programs, ITT agreed to act as a fiduciary responsible for the administration of federal funds. *See* 34 C.F.R. § 668.14(b)(2). Moreover, in issuing this letter, the Department has again considered that its Cash Management regulations are expressly intended to promote sound cash management of Title IV,

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HEA program funds by an institution, to minimize the financing costs to the Federal Government of making Title IV, HEA program funds available to a student or an institution, and to minimize the costs that accrue to a student under a Title IV, HEA loan program. 34 C.F.R. § 668.161(a)(1).

RECONCILIATION OF TITLE IV, HEA PROGRAM FUNDS

When a school receives funds pursuant to a Title IV, HEA program, it holds those funds in trust for intended student beneficiaries. As a trustee of, and with a fiduciary responsibility to administer and account for, those funds, a participating institution must have procedures in place that ensure that Title IV funds are used as intended. As described in the Federal Student Aid handbook, a “key component” of compliance with the cash management regulations and the fiduciary standards is the process of reconciliation. Title IV reconciliation is the process by which a school reviews and compares Title IV aid recorded on the Department’s systems with the information in the school’s internal records. Through reconciliation, disbursement and cash discrepancies are identified and resolved in a timely manner to ensure the school meets all regulatory requirements. Schools must document their reconciliation efforts and retain this documentation for auditing purposes.

With respect to the Direct Loan program, institutions are required to reconcile, on a monthly basis, institutional records with Direct Loan funds received from the Department and Direct Loan disbursement records submitted to and accepted by the Department. *See* 34 C.F.R. § 685.300(b)(5). Institutions are also required to implement a quality assurance system to ensure they are complying with program requirements and meeting program objectives. *See* 34 C.F.R. § 685.300(b)(9). The quality assurance process should document that the school is completing monthly reconciliation and program year closeout.¹

With respect to the Pell Grant program, FSA has advised participating institutions that, at a minimum, an institution should reconcile FSA financial records at least monthly. *See* FSA Handbook 2015-16 at 4-92. FSA has also cautioned institutions that, “the more frequently [a] school performs reconciliation, the more likely you will be able to identify issues and resolve them before they become part of a systemic problem.” *Id.* FSA has further cautioned that “it is almost impossible to satisfy other program requirements without performing monthly reconciliation of your school’s Pell Grant Program participation.” *Id.* at 4-96. As further provided in the FSA Handbook:

If a school is meeting all disbursement/adjustment reporting, excess cash, and reconciliation requirements, final reconciliation should begin no later than the last award or payment period end date at the school for a given program and year. A school should be able to reconcile to a zero ending cash balance soon after its final disbursements and should not carry an ending cash balance (positive or negative) for an extended period.

¹ *See* Electronic Announcement dated November 21, 2014 (<http://ifap.ed.gov/eannouncements/112114DirectLoanProgramReconciliation.html>); Electronic Announcement dated November 13, 2013 (<http://ifap.ed.gov/eannouncements/111313DirectLoanQualityAssuranceRequirementReminder.html>)

2015-16 FSA Handbook at 4-101.

During the course of its heightened oversight of ITT, the Department has reached the following conclusions with respect to ITT's cash management:

1. Since at least the 2009-2010 award year, ITT failed to timely reconcile its Title IV, HEA program accounts;
2. Prior to August 27, 2015, ITT had no written policy or procedure in place to guide the reconciliation of Title IV funds; and
3. ITT has requested to reopen prior award years to correct additional reconciliation issues with a frequency substantially greater than that of comparable institutions.

In addition, in July, August, and September 2015, FSA staff worked with ITT to assist with the reconciliation of Title IV, HEA funds for award years 2009-2010 to present. During that time, ITT provided conflicting information regarding the status of the reconciliation of Pell Grant Award years 2010-11, 2011-12, and 2012-13 (the reconciliation of which should have been completed well before July 2015).

Taken together, these facts demonstrate a failure by ITT to meet its fiduciary obligations, to properly and timely reconcile Title IV program funds as per the regulations and Federal Student Aid guidance, and to meet the standards of administrative capability required of institution's participating in Title IV, HEA programs, *see, e.g.*, 34 C.F.R. §§ 668.16(a), (c)(1).

ADDITIONAL RESTRICTIONS

As a result of the facts set forth above, and as a condition of remaining on the HCM1 payment method, the Department is requiring ITT to take additional steps to identify unearned Title IV HEA funds under ITT's control, and provide additional documentation to the Department regarding Title IV, HEA funds administered and drawn by ITT on behalf of its students.

1. Cash Management / Disbursements

ITT will not be permitted to disburse Title IV funds to students or parents ten days prior to the first day of classes for a payment period, as provided for in 34 C.F.R. § 668.164(f)(1). Effective immediately, ITT may only disburse Title IV funds to a student or and parent once: (i) an academic term has begun; (ii) ITT has confirmed that the student has attended courses sufficient to justify the enrollment status which supports that student's Title IV eligibility; and (iii) ITT provides written confirmation to the Department, using the form and certification attached hereto as Exhibit A (hereinafter "Certification Form"), of the student's eligibility to receive Title IV funds. Certification Forms are to be submitted to the Department no more than once by main OPEID per seven-day period.

ITT must also retain all information on which it relies to substantiate the enrollment status of each student it believes to be eligible to receive Title IV funds. If ITT is unable to document that a student has commenced attendance in a term, it may not disburse funds to the student, and it must

revise the student's Title IV awards in accordance with the Department's published guidance. All other requirements of HCM1, 34 C.F.R. § 668.162(e)(1), shall remain in effect. Moreover, nothing stated in this condition shall change the requirement stated in 34 C.F.R. § 685.303(b)(5).

2. Student Disbursement Reporting

Effective immediately, the Department is modifying the requirements for ITT to submit a monthly enrollment roster. This requirement was established on May 20, 2015 and modified June 18, 2015. In particular, ITT must now include disbursement information when submitting the monthly roster in the format (and with the information requested) shown in the Excel file provided herewith. Additionally, ITT must submit a written certification attesting to the accuracy of that roster, and attesting to ITT's adherence to these requirements. The first roster submitted must include all disbursements and refunds made in the 30 days prior to the submission date of the roster. Each subsequent roster must include all disbursements and refunds made since the submission of the previous roster. Please see enclosed sample Disbursement Roster Spreadsheet.

The certification should be made by an individual with authority to bind ITT, and should state:

By submitting this information, I certify to the best of my knowledge and belief that the information contained herein is true, complete, and accurate. I further certify that ITT Educational Services, Inc. ("ITT") has verified the eligibility of each individual to receive a disbursement of the Title IV funds provided. I further certify that ITT did not disburse Title IV, HEA funds to or for the benefit of any student listed on this roster until ITT had verified that student's attendance in the payment period for which the disbursements was intended. I further certify that ITT is and will remain in compliance with the terms and conditions of the Program Participation Agreement under which these funds have been provided. I am aware that the provision of any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me and/or ITT to criminal, civil, or administrative penalties for fraud, false statements, false claims, or other violations. (U.S. Code Title 18, Section 1001; Title 20, Section 1097; and Title 31, Sections 3729-3730 and 3801-3812).

3. Additional Reporting Requirements

Effective immediately, on the first business day of each month, ITT must provide documentation to substantiate its reconciliation of all Title IV funds drawn as of the last day of the month preceding the month before the submission date. (For example, on November 2, 2015 ITT must submit documentation to substantiate its reconciliation of Title IV funds as of the last day of September, 2015; on December 1, 2015, ITT must submit documentation to substantiate its reconciliation of Title IV funds as of the last day of October, 2015.) The reconciliation documentation must provide evidence that ITT has reconciled the program accounts as described in the Department's publications, including Electronic Announcements dated December 18, 2014

and January 23, 2015.² Please submit such documentation to Byron Scott, Case Manager, via email at Byron.Scott@ed.gov, accompanied by a statement, signed by an individual with authority to bind the company, stating that:

By submitting this information, I certify to the best of my knowledge and belief that the information contained herein is true, complete, and accurate. I further certify that ITT is and will remain in compliance with the terms and conditions of the Program Participation Agreement under which Title IV, HEA funds have been provided. I am aware that the provision of any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me and/or ITT to criminal, civil, or administrative penalties for fraud, false statements, false claims, or other violations. (U.S. Code Title 18, Section 1001; Title 20, Section 1097; and Title 31, Sections 3729-3730 and 3801-3812).

4. Additional Reporting Requirement of Bank Conditions

ITT must submit to the Department a description of any conditions that have been established by any bank or other entity that are related to ITT's participation in the Title IV HEA programs. ITT must promptly supplement this report when any new conditions are established, or when any changes are made to the existing items that have already been reported. Please submit such documentation to Byron Scott, Case Manager, via email at Byron.Scott@ed.gov

5. Additional Reporting of Individuals with Institutional Authority

Within seven days of the date of this letter, ITT must submit to the Department a list of all individuals who have the authority to direct or otherwise control the payment of any "refund[s] of unearned institutional charges" to the Department, as that phrase is used in 20 U.S.C. § 1099c(e)(6)(B). Please submit such documentation to Byron Scott, Case Manager, via email at Byron.Scott@ed.gov

Protection of Personally Identifiable Information (PII):

Because responses to certain of the above conditions will contain PII, please note the following information. PII is any information about an individual that can be used to distinguish or trace an individual's identity (such as name, Social Security number, and date/place of birth). The disclosure of PII can result in substantial harm, embarrassment, and inconvenience to individuals and may lead to identity theft or other fraud. To protect PII, please see the enclosure Protection of Personally Identifiable Information (PII) for instructions regarding submission of documents containing PII.

² <http://ifap.ed.gov/eannouncements/121814TitleIVaidDisbureRptExcessCashReconciliRequirements.html> and <http://www.ifap.ed.gov/eannouncements/012315FederalPellGrantProgramReconciliation.html>

If you have any questions, please contact Byron Scott, Case Manager, by phone at 312-730-1534 or by email at Byron.Scott@ed.gov.

Sincerely,

A handwritten signature in blue ink that reads "Michael Frola". The signature is written in a cursive style with a large initial "M".

Michael Frola
Director, Multi-Regional and Foreign School Participation Division

Enclosures:

Example Student Disbursement Roster Certification form (soft copy provided under separate email)
Disbursement Detail and Summary Tracking Spreadsheet
Protection of Personally Identifiable Information

NB: SAMPLE Certification -- To be placed on ITT stationery

DATE: <date>
TO: U.S. Department of Education
FROM: <name>, as an authorized agent and representative of ITT Educational Services, Inc. ("ITT")
SUBJECT: ITT Student Disbursement Roster Certification covering the period <date> through <date>

On behalf of ITT Educational Services, Inc., I certify that, to the best of my knowledge and belief that:

- a) ITT will be making a disbursement of Title IV funds to students or parents on <date>. No disbursements are being made to or for the benefit of any student as to whom ITT has not confirmed that the student has attended courses sufficient to justify the enrollment status which supports that student's Title IV eligibility.
- b) ITT has retained all information on which it relies to substantiate the enrollment status of each student it believes eligible to receive Title IV funds.

By submitting this information, I certify to the best of my knowledge and belief that the information contained herein is true, complete, and accurate. I further certify that ITT has verified the eligibility of each individual to receive a disbursement of the Title IV funds and in the amount provided. I further certify that ITT is and will remain in compliance with the terms and conditions of the Program Participation Agreement under which these funds have been provided. I am aware that the provision of any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me and/or ITT to criminal, civil, or administrative penalties for fraud, false statements, false claims, or other violations. (U.S. Code Title 18, Section 1001; Title 20, Section 1097; and Title 31, Sections 3729-3730 and 3801-3812)

Authorized Signature: _____

Date: _____